

HOUSE BILL REPORT

HB 1071

As Reported by House Committee On:
Health Care

Title: An act relating to the uniform disciplinary act for health professions.

Brief Description: Concerning the uniform disciplinary act for health professions.

Sponsors: Representatives Campbell and Morrell.

Brief History:

Committee Activity:

Health Care: 2/4/05, 2/25/05 [DPS].

Brief Summary of Substitute Bill

- Establishes a work group to review the complaint processing and sanctioning phases of the health professions disciplinary process.
- Requires that three specified acts of unprofessional conduct result in the automatic revocation of a health care provider's license.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cody, Chair; Campbell, Vice Chair; Morrell, Vice Chair; Appleton, Clibborn, Green, Lantz and Moeller.

Minority Report: Do not pass. Signed by 7 members: Representatives Bailey, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander, Condotta, Hinkle, Schual-Berke and Skinner.

Staff: Chris Blake (786-7392).

Background:

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health (Secretary) and the 16 health profession boards and commissions according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the Secretary or the board or commission must decide what disciplinary action is warranted by the evidence. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges.

Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered. These sanctions include: revocation of a license, suspension of a license, restriction of the practice, mandatory remedial education or treatment, monitoring of the practice, censure or reprimand, conditions of probation, payment of a fine, denial of a license request, corrective action, refund of billings, and surrender of the license. In the selection of a sanction the first consideration is what is necessary to protect or compensate the public, and the second consideration is what may rehabilitate the license holder or applicant.

Summary of Substitute Bill:

The Secretary must establish a work group which may consist of representatives of the various health professions and health profession boards and commissions. The work group must review the complaint processing and sanction determination phases of the health professions disciplinary process. By December 1, 2005, the work group must provide recommendations to the Legislature for creating greater efficiency in the processing of complaints and consistency in sanctioning, including specific ranges of sanctions for acts of unprofessional conduct and associated aggravating and mitigating factors.

Any combination of three unrelated orders for the following acts of unprofessional conduct within a 10-year period shall result in the permanent revocation of the license:

- violations of orders or stipulations of the disciplining authority;
- violations of prescribing practices that creates a significant risk to the public;
- certain convictions related to the practice of the profession in question;
- acts of abuse of a patient or client;
- sexual contact with a patient or client; or
- where death, severe injury, or a significant risk to the public results from (1) negligence, incompetence, or malpractice; (2) violation of laws regulating the profession in question; or (3) current substance abuse.

A one-time finding of specified mitigating circumstance may be issued to excuse one of the violations when the disciplining authority determines that there is either strong potential for rehabilitation of the license holder or strong potential that remedial education and training for the license holder will prevent future harm to the public. A finding of mitigating circumstances may be issued as many times as the disciplining authority determines that the act at issue involved a high-risk procedure without any lower-risk alternatives, the patient was aware of the procedure's risks, and the health care provider took remedial steps prior to the disciplinary action.

Substitute Bill Compared to Original Bill:

The substitute bill changes the requirement that a license be automatically revoked after three findings of unprofessional conduct to an automatic revocation for three unrelated orders for acts of unprofessional conduct. Violations of orders or stipulations of the disciplining authority count toward the automatic license revocation penalty. The ten year period begins upon completion of all conditions and obligations for the violation. Those who have had their license automatically revoked may not petition for reinstatement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There is significant variation in the number of actions taken by different health profession boards and commissions. There must be standards to ensure that those who are not practicing professionally are sanctioned.

(With concerns) This bill may force cases to go to hearings because nobody would want to have a strike against them.

Testimony Against: A one size fits all sentencing guideline should not be mandated. There is not enough clarity around the definition of a finding.

Persons Testifying: (In support) Representative Campbell, prime sponsor; and Laura Groshong, Washington State Society for Clinical Social Work and Washington State Coalition of Mental Health Professionals and Consumers.

(With concerns) Ann Tan Piazza, Washington State Nurses Association; and Linda Hull, Washington State Dental Association.

(Opposed) Andy Dolan, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.